



MINUTES

Judicial District and Judicial Resources Study Committee

December 17, 2003

MEMBERS PRESENT:

Senator Don Redfern, Cochairperson
Senator Keith Kreiman
Dennis Anderson
Megan Antenucci
Jackie Armstrong
Judge Stephen Clarke
Virginia Cobb
Deborah Dice
Tom Drew
Jay Eaton
Shirley Faircloth
Joe Holland

Representative Gene Maddox, Cochairperson
Representative Kurt Swaim
Carmen Loveland
John McClintock
Rhonda Millhollin
Judge John Nahra
Randy Osborn
Carolee Philpott
Judge David Remley
Marty Ryan
Judge Annette Scieszinski
H. Richard Smith
Justice Marsha Ternus

MEETING IN BRIEF

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Organizational staffing provided
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- I. Procedural Business.
- II. Committee Discussion on Next Steps.
- III. Recommendations for the 2003 Interim Final Committee Report.
- IV. Written Materials on File With the Legislative Services Agency, Legal Services Division.



Judicial District and Judicial Resources Study Committee

I. Procedural Business.

Call to Order. Cochairperson Maddox called the Judicial District and Judicial Resources Study Committee to order at 10:08 a.m., on Wednesday, December 17, 2003, in Room 22, State Capitol, Des Moines, Iowa.

Minutes. The minutes from the November 12, 2003, Judicial District and Judicial Resources Study Committee meeting were approved by unanimous vote.

Adjournment. The meeting adjourned at 12:15 p.m.

II. Committee Discussion on Next Steps.

National Experts. Cochairperson Redfern commenced Committee discussion by commenting on court surveys in states other than Iowa conducted by the National Center for State Courts (NCSC). He noted that the NCSC conducted a pilot project in Minnesota, the Minnesota Judicial Workload Assessment Study, which surveyed court culture in an attempt to assess best practices. He also suggested that the Committee invite an NCSC representative to speak to the Committee about the work the NCSC has done in other states, including surveying the area of best practices, and discussing how their assessments are performed and how the assessments are evaluated. He also suggested that if a representative of the NCSC is present the committee can question their methodologies and they can speak about their experience in performing their study for Iowa. The Committee agreed this would be a good idea. Senator Kreiman suggested that it might also be helpful to hear from representatives from Supreme Court committees that have studied the issue of best practices across the different judicial districts in Iowa. Committee discussion noted that the study of best practices is a long-term endeavor that must reflect the changing technological needs of our society. Judge Clarke, a district court judge representing the Iowa Judges Association, commented that judicial education is an important factor that must be considered in implementing best practices, and noted that funding constraints have been an issue in this area.

Continuation of Committee. Mr. Eaton, an attorney representing the Iowa State Bar Association, moved that the Committee recommend to the Legislature that the Committee be reapproved to continue to meet next year. Ms. Faircloth, a juvenile court officer representing the Juvenile Court Officers Association, seconded the motion. The motion was adopted by voice vote. The Committee agreed to schedule a meeting in May 2004 and to include in their discussions at that meeting a presentation from an NCSC representative concerning the Minnesota Judicial Workload Assessment Study as well as an update from Iowa Supreme Court Study Committee representatives on best practices. Mr. Drew, representing the Iowa Trial Lawyers Association, commented that he would also be interested in information from other sources that have conducted similar judicial workload assessment studies.

Moving Judgeships Between Districts. Judge Remley, cochairperson of the Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting, stated he is interested in the proposal that legislation be passed that would provide the Supreme Court and the Judicial Council with the flexibility to move district associate judges and district associate juvenile judges between districts as provided in existing legislation with respect to district court judges (December 10, 2003, e-mail to Committee members from Cochairpersons Redfern and Maddox). Judge Remley further



suggested that this proposal exclude situations where three magistrates have been traded for one district associate judge (19), such that currently 35 district associate judges and 12 associate juvenile judges would be eligible to be moved under this proposal.

Committee discussion focused on Judge Remley's suggestion to exclude the above-referenced three-for-one trades. Committee members queried whether it makes sense to separate out trade situations when assessing the overall judicial workload disparity. Senator Kreiman, an attorney, noted his overall concern with this proposal and stated he is not convinced the information supports the perceived disparity in judicial workloads among district associate judges and district associate juvenile judges. Committee discussion also examined whether the Supreme Court's existing authority to make temporary transfer assignments for such judges based upon need is an adequate long-term solution to the judicial disparity problem.

The Committee voted to recommend that legislation be proposed that would provide the Supreme Court and the Judicial Council with the flexibility to move district associate judges and associate juvenile judges between districts on a voluntary basis or through attrition. Senator Kreiman and Mr. Ryan, representing the Iowa Civil Liberties Union, opposed the vote.

Judicial Redistricting. The Committee also discussed whether the issue of judicial redistricting should be revisited as another possible solution to the reallocation of judicial resources. The Committee voted to recommend that it is not in a position to recommend redistricting at this time. Judge Remley, Cochairperson Maddox, and Mr. Smith opposed the vote.

Nonlawyer Magistrates. The Committee next raised the issue of whether nonlawyers are qualified to serve as magistrates. Judge Scieszinski, President-elect of the Iowa Judges Association, moved that legislation be proposed to amend the law requiring all magistrates to be attorneys, with the qualification that any current nonlawyer magistrate be allowed to finish the term they are currently serving. Mr. Holland, an attorney and past president of the Iowa Bar Association, seconded the motion. Committee discussion focused on the concern that nonlawyer magistrates are not trained in the same way that lawyer magistrates are trained, and that the increasing legal complexities of the job may be beyond the skills of nonlawyer magistrates. Ms. Millhollin, representing the Iowa County Supervisors Association, commented that the one magistrate in her judicial district is not an attorney, but is an excellent magistrate. The Committee passed Judge Scieszinski's motion on a vote of 13-12.

Mr. Eaton subsequently moved to reconsider Judge Scieszinski's motion. Judge Clarke seconded the motion. The motion to reconsider passed. The Committee then reconsidered Judge Scieszinski's original motion, which failed. Senator Kreiman moved that legislation be proposed that would require all newly appointed magistrates to be attorneys and that currently serving nonlawyer magistrates have the option of reapplying for appointment. Senator Kreiman further moved that attorney applicants for a magistrate position be allowed to reside in an adjoining county at the time of the appointment. The motion passed. Mr. Ryan opposed the motion and voiced his opposition based upon constitutional concerns.

Other Recommendations. The Committee also considered and adopted motions recommending that the Supreme Court examine the issue of permitting litigants in a civil case to waive the rules of civil procedure and apply small claims rules and procedures in district court, and that the Supreme



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Court examine the possibility of establishing an early dispositional court pilot project in criminal cases.

III. Recommendations for the 2003 Interim Final Committee Report.

In summary, the Committee recommended the following items be included in the 2003 Interim Final Committee Report:

1. The Committee requests authorization from the Legislative Council to meet again in 2004.
2. The Committee reports that it is not in a position to make a recommendation on redistricting the judicial districts.
3. The Committee recommends the General Assembly move forward with legislation that would provide the Supreme Court and the Judicial Council with the flexibility to move district associate judges and associate juvenile judges between judicial districts as was provided in legislation last session with respect to district judges.
4. The Committee recommends the General Assembly move forward with legislation that would require all newly appointed magistrates to be an attorney; provided, however, current nonlawyer magistrates would not lose their position and would be eligible to apply and be reappointed as a magistrate.
5. That the General Assembly proceed with legislation that allows a magistrate applicant to apply for a magistrate position in a county contiguous to the applicant's county of residence but does not require the applicant to establish residency in that county. An applicant can also apply for a magistrate position in another county, but if the county is not contiguous to the applicant's county of residence, the applicant must establish residency in the county of appointment or a county contiguous to the county of appointment upon assuming the office of magistrate.
6. The Committee recommends the Supreme Court examine the issue of a rule change permitting litigants in a civil case to waive the rules of civil procedure and apply small claims rules and procedure in district court.



7. The Committee also recommends the Supreme Court examine the possibility of establishing an early dispositional court pilot project in criminal cases.

IV. Written Materials on File With the Legislative Services Agency, Legal Services Division.

1. December 10, 2003, e-mail to Committee members from Cochairpersons Redfern and Maddox.
2. Chart summarizing redistricting of surrounding states by Jennifer Acton, Legislative Analyst, Fiscal Services Division, Legislative Services Agency.
3. Synopsis of surrounding states' judicial officer allocation laws by Jennifer Acton, Legislative Analyst, Fiscal Services Division, Legislative Services Agency.

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